

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 897 of 1990

With

SPECIAL CIVIL APPLICATION No 898 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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AHMEDABAD ELECTRICITY CO.LTD.

Versus

SPACE AGE INDUSTRIAL PRODUCTS LTD.

Appearance:

MR KB PUJARA for Petitioner
MR RAJNI H MEHTA, Barrister, for Respondent No.2
None present for other Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/09/1999

ORAL JUDGEMENT

1. Both these matters are identical and the parties
are also common, and as such, the same are being taken up
for hearing together, and are being disposed of by this

common judgment.

2. In this Special Civil Applications, the petitioner is praying for directions to the respondent No.2 to satisfy the advance guarantee in the balance sum as given out in these matters plus interest. In both these matters, total sum of Rs.15,41,401=16 ps. is the balance amount excluding interest and in pursuance of the court's order, the respondent No.2 has already deposited that amount in the court.

3. Barrister Shri Rajni H.Mehta submitted that, this amount has been deposited by the respondent No.2 and the respondent No.2 has no objection in case this amount is paid to the petitioner to the extent of their claim, but it may not be taken to be a precedent or a decision, as if, in such matter, the petitioner under Article 226 of the Constitution is entitled to raise such a dispute. Prima facie, I find that in such matter, remedy under Article 226 of the Constitution of India may not be an appropriate and proper remedy, but in view of the statement aforesaid made by the learned counsel for the respondent No.2 and the fact that the amount has already been deposited in the court and it has no objection in payment thereof to the petitioner, it is not necessary to decide this question on merits. However, this decision may not be taken to be a precedent in such matter.

4. So far as the claim of interest of the petitioners as made in this Special Civil Applications is concerned, learned counsel for the petitioners gave up their this claim.

5. As a result of the aforesaid discussions, rule in each Special Civil Application and both the Special Civil Applications are stand disposed of accordingly with no order as to costs. Office is directed to pay the amount deposited in each Special Civil Application by the respondent No.2 to the petitioner of the case forthwith.

(S.K.Keshote,J.)
(pathan)